

Message Text

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TO AMEMBASSY PANAMA PRIORITY

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STADIS////////////////////////////////

E.O. 11652: N/A

TAGS: PBOR; PN

SUBJECT: MEMORANDUM OF UNDERSTANDING ON THE RELATIONSHIP
BETWEEN THE AMBASSADOR AND THE ADMINISTRATOR

REFERENCES: (A) STATE 181406; (B) PANAMA 05275

1. FYI. TEXT FOLLOWS OF MEMORANDUM OF UNDERSTANDING
INFORMALLY AGREED WITH DOD LAST WEEK, BUT NOW APPARENTLY
STALLED THERE BECUASE OF PROBLEMS WITH ARMY.

A. BEGIN QUOTE: THE ENTRY INTO FORCE OF THE PANAMA
CANAL TREATY WILL SIGNIFICANTLY CHANGE THE ENVIRON-
MENT AND PURPOSE OF U.S. GOVERNMENT ACTIVITY IN THE
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PAGE 02 STATE 215788

REPUBLIC OF PANAMA. IN PARTICULAR, A MAJOR NEW
RESPONSIBILITY OF THE UNITED STATES WILL BE TO ASSIST
PANAMA TO PREPARE FOR ITS STEWARDSHIP OF THE PANAMA
CANAL. IN THIS REGARD, ALL AGENCIES OF THE UNITED
STATES GOVERNMENT IN PANAMA WILL CONDUCT THEIR ACTIVI-
TIES IN FULL CONSIDERATION OF THEIR IMPACT ON UNITED
STATES RELATIONS WITH PANAMA. EFFECTIVE IMPLEMENTATION OF

THE TREATY WILL REQUIRE CONSULTATION AMONG UNITED STATES

AGENCIES OPERATING IN PANAMA AND COOPERATION IN THE
COORDINATION OF THE POLICIES AND ACTIVITIES OF THESE
AGENCIES.

B. THE PANAMA REVIEW COMMITTEE (PRC), ESTABLISHED
PURSUANT TO NSAM 296 AND NSDM 22, WILL CONTINUE
TO SERVE AS THE PRINCIPAL FORUM IN PANAMA FOR SUCH
CONSULTATION AND COORDINATION. UPON ENTRY INTO FORCE
OF THE TREATY, THE PRC WILL BE COMPOSED OF THE AMBASSA-
DOR TO PANAMA, USCINCSO, AND THE ADMINISTRATOR OF THE
PANAMA CANAL COMMISSION. THE PRC SHALL BE CHAIRED BY
THE AMBASSADOR, AND WILL MEET PERIODICALLY OR AT THE
REQUEST OF ANY MEMBER.

C. THE PRC SHALL BE THE FORUM FOR THE EXCHANGE OF
REPORTS AND INFORMATION, AND FOR THE COORDINATION OF
ACTIONS AND PROPOSALS RELATING TO THE IMPLEMENTATION
OF THE PANAMA CANAL TREATY, AS THEY BEAR UPON UNITED
STATES/PANAMANIAN RELATIONS. THE MEMBERS WILL ENDEAVOR
TO RESOLVE PROMPTLY IN PANAMA ANY DIFFERENCES WHICH MAY
ARISE BETWEEN THEM, AND, IF NECESSARY, WILL REFER SUCH
MATTERS THROUGH APPROPRIATE CHANNELS TO WASHINGTON.

D. IN ORDER TO ENSURE THAT UNITED STATES ACTIVITIES
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PAGE 03 STATE 215788

IN THE REPUBLIC OF PANAMA IN IMPLEMENTATION OF THE
PANAMA CANAL TREATY ARE EFFECTIVELY COORDINATED, THE
FOLLOWING INSTRUCTIONS SHALL APPLY:

-- THE STATUTORY RESPONSIBILITIES OF THE AMBASSADOR
AND THE ADMINISTRATOR ARE SET FORTH IN P.L. 93-475,
DATED OCTOBER 26, 1974, (22 U.S.C. 268A) AND SECTIONS
102 AND 207 OF THE LEGISLATION IMPLEMENTING THE PANAMA
CANAL TREATIES.

-- PURSUANT TO PRESIDENTIAL GUIDANCE THE ADMINISTRATOR,
AS CHIEF EXECUTIVE OFFICER OF THE PANAMA CANAL COMMISSION,
SUBJECT TO THE DIRECTION AND SUPERVISION OF THE BOARD OF
DIRECTORS, EXECUTES THE RESPONSIBILITY OF THE COMMISSION
WITH RESPECT TO THE MANAGEMENT, OPERATION AND MAINTENANCE
OF THE PANAMA CANAL.

-- THE AMBASSADOR IN THE REPUBLIC OF PANAMA HAS THE RE-
SPONSIBILITY TO ASSESS THE EFFECT OF PANAMA CANAL
COMMISSION PLANS AND ACTIVITIES IN LIGHT OF UNITED
STATES OBJECTIVES IN THE REPUBLIC OF PANAMA AND TO
MAKE APPROPRIATE OBSERVATIONS THEREON, IN PANAMA AND

IN WASHINGTON. HIS CONCERN WILL BE WITH THE EFFECT OF PANAMA CANAL COMMISSION ACTIVITIES ON UNITED STATES RELATIONS WITH THE REPUBLIC OF PANAMA, AND NOT WITH

MANAGEMENT, OPERATION AND MAINTENANCE OF THE PANAMA CANAL. OF EQUAL IMPORTANCE, HE IS RESPONSIBLE FOR ASSESSING THE IMPACT OF THE GOVERNMENT OF PANAMA'S POLICIES AND ACTIVITIES ON UNITED STATES OBJECTIVES AND FOR PROMOTING THE GOP'S UNDERSTANDING AND ACCEPTANCE OF THESE OBJECTIVES. THE AMBASSADOR SHALL HAVE NO AUTHORITY TO DIRECT THE ADMINISTRATOR TO INITIATE NEW OR TO WITHHOLD EXISTING POLICIES OR ACTIVITIES REGARDING THE MANAGEMENT, OPERATION, OR MAINTENANCE OF THE CANAL.

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PAGE 04 STATE 215788

-- TO ENABLE THE AMBASSADOR TO DISCHARGE HIS RESPONSIBILITY, THE ADMINISTRATOR WILL KEEP THE AMBASSADOR FULLY AND CURRENTLY INFORMED WITH RESPECT TO THE OFFICIAL ACTIVITIES AND OPERATIONS OF THE OFFICERS AND EMPLOYEES OF THE COMMISSION IN THE REPUBLIC OF PANAMA. IN PARTICULAR, THE ADMINISTRATOR WILL INFORM THE AMBASSADOR OF THE PROPOSED INITIATION OF MAJOR ACTIVITIES, OPERATIONS, OR CHANGES IN POLICY OF THE COMMISSION IN REASONABLE TIME TO PERMIT THE AMBASSADOR TO COMMENT ON SUCH MATTERS IN PANAMA, AND, IF REQUIRED, IN WASHINGTON, PRIOR TO THEIR INITIATION. THE AMBASSADOR SHALL SIMILARLY INFORM THE ADMINISTRATOR OF ALL ACTIVITIES AND POLICIES OF UNITED STATES AGENCIES IN PANAMA WHICH MAY AFFECT THE MANAGEMENT AND OPERATION OF THE CANAL AND PROVIDE HIM THE SAME OPPORTUNITY TO COMMENT.

-- THE ADMINISTRATOR WILL COORDINATE THROUGH THE AMBASSADOR PROPOSED OFFICIAL CONTACTS BETWEEN PANAMA CANAL COMMISSION AND PANAMANIAN GOVERNMENT OFFICIALS (OTHER THAN THOSE ROUTINELY INVOLVED IN THE COMMISSION'S ACTIVITIES). HE WILL KEEP THE AMBASSADOR INFORMED OF THE RESULTS OF THESE AS WELL AS OTHER SIGNIFICANT CONTACTS WITH PANAMANIAN OFFICIALS.

E. THE PROCEDURES OUTLINED ABOVE APPLY TO THE PLANNING AND PREPARATION FOR THE IMPLEMENTATION OF THE PANAMA CANAL TREATY PRIOR TO ITS ENTRY INTO FORCE, AND SUBSEQUENTLY TO ITS IMPLEMENTATION. END QUOTE.

2. REFTTEL B NOTED EMBASSY'S CONCERN THAT EARLIER DRAFT DID NOT MAKE CLEAR WHETHER IN CASES WHERE ACTION IS OPPOSED BY THE AMBASSADOR, THE ADMINISTRATOR MUST WAIT FOR APPROVAL BY WASHINGTON BEFORE TAKING ACTION. THE LIMITED OFFICIAL USE

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PAGE 05 STATE 215788

LANGUAGE IN PARAGRAPH 1 ABOVE WAS THE RESULT OF EXTENSIVE NEGOTIATION. IT IS THE CLOSEST WE FELT WE COULD GO IN ACCOMMODATING EMBASSY CONCERNS AND STILL ACHIEVE AGREEMENT WITH DOD. FOR ITS PART, DOD WAS CONCERNED THAT AMBASSADOR, MERELY BY STATING AN INTENT TO COMMENT ON AN ACTION, WOULD HAVE IN EFFECT AN UNLIMITED VETO ON

PROPOSED COMMISSION ACTIONS. THE COMPROMISE REQUIRES, THEREFORE, THAT, JUST AS THE ADMINISTRATOR MUST INFORM THE AMBASSADOR WITHIN A REASONABLE TIMEFRAME, SO TOO MUST THE AMBASSADOR COMMENT WITHIN A TIMEFRAME THAT IS "REASONABLE" GIVEN THE CIRCUMSTANCES OF A PARTICULAR CASE.

3. REFTTEL B ALSO NOTED EMBASSY'S CONCERN THAT EARLIER DRAFT DID NOT CLEARLY ESTABLISH AMBASSADOR'S AUTHORITY RESPECTING CONTACTS WITH SENIOR PANAMANIAN OFFICIALS. WHILE THE REVISED TEXT DOES NOT USE THE LANGUAGE SUGGESTED IN REFTTEL B, THE TEXT CONTAINS THE PRINCIPLE DESIRED BY EMBASSY.

4. IN THE ONLY OTHER CHANGE OF SIGNIFICANCE THE MEMO DESCRIBES THE ADMINISTRATOR'S POSITION WITHIN THE CANAL COMMISSION IN CONTRAST TO EARLIER FORMULATIONS WHICH ATTEMPTED TO DESCRIBE HIS POSITION WITHIN THE EXECUTIVE BRANCH. THE NEW VERSION SIMPLY STATES THAT THE ADMINISTRATOR, SUBJECT TO DIRECTION OR SUPERVISION OF THE BOARD OF DIRECTORS, EXECUTES WHATEVER RESPONSIBILITIES THE COMMISSION MAY HAVE.

5. APPROVAL BY DEPSECS CHRISTOPHER AND DUNCAN AWAITS CLEARANCE AT LOWER LEVELS. WILL KEEP YOU INFORMED. CHRISTOPHER

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